

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DAVID LYNN CARPENTER,	§	
<i>PETITIONER,</i>	§	
	§	
V.	§	No. 3:02-CV-1145-B
	§	
RICK THALER, Director,	§	(Death Penalty Case)
Texas Department of Criminal Justice	§	
Correctional Institutions Division,	§	
<i>RESPONDENT.</i>	§	

ORDER DENYING EVIDENTIARY HEARING

On June 15, 2011, Petitioner filed his *Motion for Evidentiary Hearing* (doc. 106), which was referred to the undersigned United States Magistrate Judge (doc. 107). On July 28, 2011, Respondent filed his *Response in Opposition to Petitioner's Motion for an Evidentiary Hearing* (doc. 112).

The motion for evidentiary hearing fails to set forth sufficient grounds to warrant an evidentiary hearing, but merely asserts the conclusion that such a hearing is not precluded by *Cullen v. Pinholter*, ___ U.S. ___, 131 S.Ct. 1388, 179 L.Ed.2d 557 (2011). However, an amended petition is expected and the Court agrees with Respondent that the instant motion should be denied without prejudice to the refiling of same when the amended petition is filed.

IT IS, THEREFORE, ORDERED that Petitioner's *Motion for Evidentiary Hearing* (doc. 106) is DENIED WITHOUT PREJUDICE.

SIGNED December 5, 2011.


RENÉE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE